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SUBCOMMITTEE ON FEDERALISM AND THE CENSUS

Congressman Michael R. Turner, Chairman



OVERSIGHT HEARING

STATEMENT BY MICHAEL R. TURNER, CHAIRMAN

Hearing topic: “Brownfields and the Fifty States: Are State Incentive Programs Capable of Solving America’s Brownfields Problem?”

Tuesday, September 13, 2005
10:00 a.m.
Room 2203, Rayburn House Office Building

OPENING STATEMENT

Welcome to the Subcommittee on Federalism and the Census’ oversight hearing entitled “*Brownfields and the Fifty States: Are State Incentive Programs Capable of Solving America’s Brownfields Problem?*” This hearing is the third in a series investigating the issue of brownfields redevelopment and ways to incentivize more aggressive (widespread??) redevelopment efforts.

In our two previous hearings, the Subcommittee heard testimony describing the magnitude of the problems surrounding brownfields redevelopment. Additionally, we learned more about the federal government’s response to the issue and the strengths and weaknesses of those efforts.

There are an estimated 450,000 to 1 million brownfields across our nation, contributing to community blight, thus lowering property values and decreasing tax revenues. These sites lay abandoned and unused due to federal environmental laws and regulations that encourage abandonment of contaminated property by creating disincentives for cleanup and redevelopment.

Current federal law triggers liability for remediation of contaminated properties once landowners have knowledge of the contamination. However, if redevelopment begins and contamination is discovered, the owner may be liable for remediation costs. If an owner abandons the property without disturbing the contamination, remediation costs may be avoided. The net effect of these laws and loopholes is the encouragement of abandoning brownfields. If we are to achieve

our goal of restoring these properties to productive use and redeveloping them into centers of economic and community vitality, we must craft a federal response to a federally created problem. We must fashion that response to complement existing redevelopment programs.

With this knowledge, we move forward today to focus on state efforts to address the problem. The Subcommittee will hear from representatives of Ohio, Illinois, Michigan, and Pennsylvania. These particular states offer a number of incentive programs to encourage brownfields redevelopment. The incentives range from direct grants to low interest loans and various tax incentives such as credits, abatements, and forgiveness. I look forward to hearing details on these programs and their effect on brownfields redevelopment.

While states are to be commended for their efforts, there are also a number of issues surrounding state programs at large that I believe inhibit greater success. First, state programs are often narrowly targeted, leaving owners or developers of contaminated sites ineligible for the financial assistance that is often critical in a decision-making process of whether to redevelop a brownfield site or to develop on a greenspace site. While a number of states have adopted the federal definition of “brownfields” as created by Congress in 2002, thereby easing some of the restrictions on sites qualifying for financial assistance, targeting remains a barrier to the redevelopment of numerous contaminated sites. In addition, we have 50 states with 50 different programs. The consequence is a confusing patchwork of often complex laws and regulations. The result of these two limitations is akin to a child’s puzzle – interested parties may only be eligible for assistance if the property fits like a toy through slot A and lies squarely in opening B.

Last year, I, along with Chairman Tom Davis, requested that GAO study the status of brownfields redevelopment across the nation. GAO’s report shows that stakeholders are generally positive about the current federal efforts to address brownfields but that additional incentives, such as a tax credit, are needed to spur further brownfields redevelopment and really make a difference in communities across the country.

In response to that study, I plan to introduce legislation similar to H.R. 4480 from last Congress, the “Brownfields Revitalization Act of 2004.” As noted earlier, many states offer tax credits or other tax incentives but they vary from state to state. A federal tax credit would apply to brownfields redevelopment across the board, without narrow tailoring. H.R. 4480 proposed a federal tax credit of up to 50 percent for qualified remediation expenses of brownfields in certain poverty-rated areas. Specifically, credits would be available to redevelopment projects where the local government entity includes a census tract with poverty in excess of 20 percent although the project need not be located within that tract. Further, the legislation will require that sites must be enrolled in a state voluntary cleanup program to be eligible for the liability protection afforded under the Brownfields Revitalization and Environmental Restoration Act of 2001.

We have two panels of witnesses before us today to discuss all of these issues. We look forward to learning more about their various state incentive programs addressing brownfield redevelopment efforts. We will also hear our panelists’ opinions on improving or complementing their state efforts at the federal level. First, we will hear from Charlie Bartsch, a Senior Policy Analyst at the Northeast Midwest Institute; Kathleen McGinty, Secretary of the Pennsylvania Department of Environmental Protection; John Magill, Director of the Office of Urban Development at the Ohio Department of Development; Douglas Scott, Director of the Illinois Environmental Protection Agency; and Andrew Hogarth, Chief of the Remediation and Redevelopment Division at the Michigan Department of Environmental Quality.

Our second panel of witnesses consists of representatives from the private sector. We will hear from Robert Colangelo, Executive Director of the National Brownfield Association; Jonathan Philips, Senior Director of Cherokee Investment Partners, LLC; Charles Houder, Director of Acquisitions for Preferred Real Estate Investments, Inc.; and finally, Kevin Matthews, Director of Association & Governmental Relations at AIG Environmental.

I look forward to the expert testimony our distinguished panel of leaders will provide today. Thank you all for your time today and welcome.

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